

STATE OF INDIANA)
) SS:
COUNTY OF SULLIVAN)

IN THE SULLIVAN SUPERIOR COURT
2009 TERM
CAUSE NO. 77D01-0911-SC-00760
77D01-0911-SC-00758

SHAVAUGHN CARLOS WILSON-EL,
Plaintiff

VS

INDIANA DEPT. OF CORRECTIONS and
WABASH VALLEY CORRECTIONAL FACILITY
Defendants

FILED
IN SUPERIOR COURT

NOV 05 2009

Shirley A. Ramey
Clerk, Sullivan Superior Court

ORDER

Pursuant to I.C. 34-58-1-1, this Court has examined Plaintiff's proposed Small Claims Complaints and has determined, pursuant to I.C. 34-58-1-2, that the claims will not be placed on the active docket for the reason that they may contain duplicative allegations, Plaintiff has failed to provide proof of compliance with the Indiana Tort Claims statutes, and several of his claims for loss of personal property items are barred by the expiration of the statute of limitations.

The Plaintiff has failed two (2) separate lawsuits that allege damages for properties that were withheld or not transferred during his transfer from Wabash Valley Correctional Facility to a new facility. However, upon reading the Small Claims Complaint filed in 77D01-0911-SC-00760, it appears to involve sixteen (16) different losses of legal documents that occurred over a five (5) month period prior to the Plaintiff's transfer in addition to loss of personal property items including a dental plate. The Court makes note of the dental plate because this is at least the third Small Claims Complaint the Plaintiff has filed for the loss of a dental plate. Further, the Plaintiff has not provided the Court with proof that his Tort Claims Notice dated July 23, 2008, was mailed in accordance with the Indiana Tort Claims statutes.

The Small Claims Complaint filed in 77D01-0911-SC-00758 again alleges loss of legal documents and personal property items that were withheld or not transferred during his transfer. Plaintiff is seeking damages for some personal property items that were withheld on July 11, 2007, and July 31, 2007. The two year statute of limitations applies to these items, and Plaintiff's claims for damages for the loss of these items is barred. Plaintiff's Complaint then jumps to June 12, 2008, where he alleges legal documents and personal property items were removed from his cell and to be "withheld" until completion of his segregation or completion of the grievance process. The grievance process no longer applies to the loss of personal property items, and DOC policy does not require the DOC to store an offender's property while in segregation. The offender must choose a disposition for his property within 60 days of the confiscation or it will be destroyed. The Plaintiff was transferred on July 29, 2008, which was during the 60 day period to choose a disposition, and he has not submitted to the Court any




documentation showing he chose a disposition. Further, the Plaintiff has not provided the Court with proof that he mailed his Tort Claim Notice dated 11/6/08 in compliance with the Indiana Tort Claim Notice statute.

In an effort to substantiate that Plaintiff complied with the Tort Claims Notice statutes, he submits to the Court in both cases a letter dated January 16, 2009, from the Office of the Attorney General wherein they advise they have "reviewed the Tort Claim submitted by the above-named offender", but the Court cannot determine what Tort Claim is being referred to, i.e. the allegations contained in 77D01-0911-SC-00758 or 77D01-0911-SC-00760 or one of his other numerous complaints.

The Plaintiff has several other pending cases in this Court for loss of personal property items, and the Court has tried several cases involving the loss of this offender's personal property. The Court spends countless hours trying to determine if Plaintiff has already filed a lawsuit regarding his alleged "new loss". It appears at times that the Plaintiff is using the judicial system to play games to determine if the Court can determine which claims have merit, which are being made in duplicate, and whether it is possible to get a double recovery.

This matter is removed from the Court's active docket for the foregoing reasons.

SO ORDERED this 5th day of November, 2009.


ANN SMITH MISCHLER, Magistrate
Sullivan Superior Court


ROBERT E. SPRINGER, Judge
Sullivan Superior Court

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